


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Garth W. Gobeli
SERIAL NO.: 08/873,999 Date: March 9, 1998
FILED: June 12, 1997
FOR: METHOD AND DEVICE FOR GLUCOSE CONCENTRATION MEASUREMENT
WITH SPECIAL ATTENTION TO BLOOD GLUCOSE DETERMINATIONS

PETITION FOR FILING BY OTHER THAN THE INVENTOR
UNDER 37 C.F.R. § 1.47(b)

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The applicant, TecMed, Incorporated (hereinafter "TecMed"), hereby petitions the commissioner to accept the filing of the above-identified U. S. patent application filed on 6/12/97 without the sole inventor's signature.

The required petition fee in the amount of \$130.00 for a small entity under 37 C.F.R. § 1.17(h) is submitted herewith.

The commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 03-0088. Two (2) duplicate copies of this paper are enclosed.

Enclosed are:

- (1) the Declaration of Alan J. Leszinske (President, TecMed) and its appended Exhibit A;
- (2) the Declaration of Roy A. Anuskewicz, Jr. and its appended Exhibits A-E; and
- (3) a Declaration and Power of Attorney for the patent application, executed on behalf of TecMed by Alan J. Leszinske, President of TecMed.

Exhibit A to the Declaration of Alan J. Leszinske is a copy of a "Technology Purchase Agreement" signed by TecMed and Mr. Gobeli on August 28, 1995. As indicated in Paragraph 4 of the Declaration of Alan J. Leszinske, after the "Technology Purchase Agreement" was executed on August 28, 1995, Mr. Gobeli was in charge of developing for TecMed a portable system for blood sugar level measurement, which is disclosed in detail in the above-identified patent application.

As indicated in Paragraph 5 of the Declaration of Alan J. Leszinske, Mr. Gobeli cooperated fully with TecMed's patent attorney in preparation of the specification, drawings, and claims of the above-identified patent application.

Therefore, it is respectfully submitted that the above "Technology Purchase Agreement" establishes TecMed's proprietary interest in the above-identified patent application.

As indicated in Paragraphs 6 and 7 of the Declaration of Alan J. Leszinske, Mr. Leszinske made several personal requests to Mr. Gobeli that he sign a Declaration and Power of Attorney for the above-identified patent application, and that Mr. Gobeli refused to do so. Mr. Leszinske then asked Roy A. Anuskewicz Jr., an attorney who represents TecMed, to present a Declaration and Power of Attorney for the above-identified patent application to Mr. Gobeli and ask him to sign it.

Paragraphs 2-6 of the Declaration of Roy A. Anuskewicz, Jr. show that on several occasions Mr. Gobeli was properly given an adequate opportunity to join in the application. Paragraph 6 of the Declaration of Roy A. Anuskewicz, Jr. shows that Mr. Gobeli, with the Declaration and Power of Attorney in front of him, refused to execute the Declaration and Power of Attorney.

Paragraph 9 of the Declaration of Alan J. Leszinske indicates that severe alcohol abuse by Mr. Gobeli is a factor in Mr. Gobeli's refusal to execute the Declaration and Power of Attorney which was properly presented to him on several occasions.

As stated in Paragraph 6 of the Declaration of Alan J. Leszinske, TecMed is actively developing and improving the blood glucose measurement system disclosed in the above-identified patent application and intends to introduce a system that incorporates the invention to the marketplace as soon as possible. As a result of such activities, the right to apply for a foreign patent is very likely to be lost, and the right to apply for a U. S. patent is very likely to be lost under 35 U.S.C. § 102 if TecMed does not apply for the patent under 37 C.F.R. § 47(b). This will result in the irreparable damage if TecMed does not apply for a U. S. patent under 37 C.F.R. § 47(b).

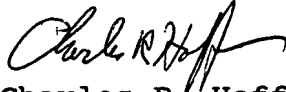
Furthermore, in the event that closer prior art than previously known to TecMed is discovered, the right to rely on the filing date of the above application will be lost, resulting in irreparable damage if TecMed does not apply for the patent under 37 C.F.R. § 47(b).

In view of the foregoing, it is respectfully submitted that this petition and the accompanying declarations comply with the

requirements of 37 C.F.R. § 47(b).

Respectfully submitted,

CAHILL, SUTTON & THOMAS P.L.C.

A handwritten signature in cursive script, appearing to read "Charles R. Hoffman".

Charles R. Hoffman
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